



WISCONSIN LEGISLATURE

P.O. Box 7882 • Madison, WI 53707-7882

3/9/2023

Dr. Robert M. Califf, Commissioner
U.S. Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993

Dear Dr. Califf,

We write today regarding the U.S. Food and Drug Administration's (FDA) draft recommendations on the naming of plant-based foods that are marketed and sold as alternatives to milk. As elected officials in a leading dairy state and members of the Wisconsin Senate Agriculture and Tourism Committee, we are concerned by the FDA's draft guidance which would allow plant-based products to be labeled as "milk" and recommend a voluntary nutrient statement on plant-based products labeled as "milk."

As the primary regulatory authority for food safety on the federal level, it is important that the FDA properly enforces the standing regulations concerning standards of identity for milk and other dairy products. Under the Food, Drug & Cosmetic Act, pursuant to 21 USC § 341, the FDA has explicit statutory authority to promulgate regulations to standardize a food under a common or usual name. Specifically, this regulatory framework works to ensure that our nation's agricultural products are properly labeled and marketed in a manner that promotes consistency and provides accurate information for consumers to fully understand the nutritional content and ingredients of products. This information allows consumers to better engage in healthy dietary decision making.

Allowing plant-based products to bear the traditional and common labeling terms such as "milk" creates confusion for consumers and contradicts the regulatory framework established by the FDA. Enabling non-dairy products to use dairy names creates the perception that they are nutritionally equivalent, despite the FDA defining "milk" as "the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows."

Further, recommending that a plant-based product voluntarily include a nutrient statement which conveys how the product compares with milk does not create consistency or establish a standard so that consumers can accessibly know the nutritional differences between these products. As this is only voluntary guidance and these plant-based products do not possess a standardized name, plant-based products using the "milk" name could still portray themselves as an equal nutritional alternative despite their dissimilarity.

It is important to safeguard the message that dairy products can provide unique nutritional benefits for Americans in pursuit of healthy lifestyles. Clarity and distinction between dairy foods and plant-based products are important to avoid confusion and misunderstanding of the actual characteristics and nutritional content of each type of product.



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We respectfully encourage you to reconsider this draft guidance, which would detrimentally impact Wisconsin farmers and the high quality products they make. Wisconsin's agriculture industry is the leading contributor to our state's economy, generating over \$104 billion in economic activity per year. Dairy is a vital part of this economic activity, but by treating non-dairy products as nutritionally equivalent to dairy, both producers and our economy will be at risk.

Sincerely,

A handwritten signature in black ink that reads "Brad Pfaff".

Brad Pfaff
State Senator
32nd Senate District

A handwritten signature in black ink that reads "Jeff Smith".

Jeff Smith
State Senator
31st Senate District

A handwritten signature in black ink that reads "Mark Spreitzer".

Mark Spreitzer
State Senator
15th Senate District

A handwritten signature in black ink that reads "Diane Hesselbein".

Diane Hesselbein
State Senator
27th Senate District